

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

VISHVA DESAI and PHILIP J. CHARVAT,	)	
on behalf of themselves and others similarly situated,	)	
	)	
Plaintiffs,	)	
	)	Case No. 11 C 1925
v.	)	
	)	Judge Bucklo
ADT SECURITY SYSTEMS, INC.,	)	
	)	
Defendant.	)	
-----	)	
ADT SECURITY SYSTEMS, INC.,	)	
	)	
Third-Party Plaintiff,	)	
	)	
v.	)	
	)	
MR. PETE TOLMAN; LEADS DIRECT	)	
MARKETING; VOICE TEL CORP.; MR.	)	
CHRISTOPHER LONG; EMI, INC.; CITY VIP, LLC;	)	
JMB ENTERPRISES; DIRECT SAVINGS USA, INC.;	)	
MR. OSCAR MONTENEGRO; EVERSAFE	)	
SECURITY SYSTEMS, INC.; SAFE STREETS USA,	)	
LLC; PARAMOUNT MEDIA GROUP; THE	)	
ELEPHANT GROUP, INC.; and UNKNOWN JOHN	)	
DOE DEFENDANTS I THROUGH XX,	)	
	)	
Third-Party Defendants.	)	
_____	)	

**ELEPHANT GROUP INC.'S MOTION FOR RECONSIDERATION  
OF ORDER OF JANUARY 30, 2015**

NOW COMES Third Party Defendant, Elephant Group, Inc., by and through undersigned counsel, and pursuant to Federal Rule of Civil Procedure 59(e), hereby moves this Honorable Court to reconsider the Order of January 30, 2015, which

concluded that Elephant Group was contractually obligated to indemnify ADT in the underlying class action settlement. In support thereof, Elephant Group states as follows:

1. Federal Rule of Civil Procedure 59(e) provides that a “motion to alter or amend a judgment must be filed no later than 28 days after entry of the judgment.” (emphasis added).

2. On January 30, 2015, this Court entered a Memorandum Opinion and Order resolving the parties’ cross motions for summary judgment. *See Doc. 304*.

3. On February 12, 2015, Elephant Group filed an Unopposed Motion for Clarification seeking a determination of whether the January 30, 2015 Order was intended to be a “judgment” pursuant to Federal Rule of Civil Procedure 59. *See Doc. 305. See also Fed. R. Civ. P. 58* (detailing the requirements that a judgment be “set out in a separate document.”).<sup>1</sup>

4. Elephant Group respectfully submits that the Court erred in granting summary judgment in favor of ADT, Inc. for at least the following three reasons, and requests that the Court reconsider the Order: (1) the Court erred in concluding that Paramount was the agent of Elephant Group; (2) the Court erred when determining that EMI was the sub-agent of Elephant Group; and (3) the Court erred by finding that Elephant Group’s putative breach of the agreement was a causal factor in the losses

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<sup>1</sup> This motion for reconsideration is being filed to ensure timely filing under Fed. R. Civ. P. 59(e) and to the extent the Court clarifies the Memorandum Opinion and Order of January 30, 2015 by reaching a conclusion that the Order was intended to be a judgment under Fed. R. Civ. P. 58. Should the Court find that a judgment under Rule 58 has been set out, Elephant Group will submit a memorandum in support of this motion for reconsideration. If, however, the Court determines that no judgment has yet been entered, Elephant Group would anticipate withdrawing this motion for reconsideration without prejudice and renewing the motion within 28 days of entry of a final judgment.

sustained by ADT.

WHEREFORE, based on the foregoing, Elephant Group, Inc. respectfully prays that this Honorable Court reconsider the Order of January 30, 2015, reverse the finding that Paramount was an agent of Elephant Group, that EMI was a sub-agent of Elephant Group, and grant summary judgment in favor of Elephant Group.

Respectfully submitted,

/s/ Daniel W. Pisani

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*Attorneys for Elephant Group, Inc.*

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on February 26, 2015, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system. Notice of this filing will be sent to the parties of record by operation of the Court's electronic filing system.

/s/ Daniel W. Pisani